

SELECTMEN'S MEETING MINUTES

October 25, 2011

Members Present: Larry Harrington, Chairman
James J. DeVellis, Vice Chairman
Mark Sullivan, Clerk
Lorraine Brue
Lynda Walsh

Others Present: Kevin Paicos, Town Manager
Robert Cutler, Town Clerk
Kevin Weinfeld and Bill Grieder, Planning Board
Attorneys Paul DeRensis &
Rich Hucksam, Jr., Deutsch/Williams

The meeting, held at the Ahern School, was brought to order at 7:00 p.m. by Larry Harrington, Chairman.

7:00 – Citizen's Input – Bob Cutler, Town Clerk, came before the Board to request nomination of one member to the Board of Registrars. A brief discussion was held.

Motion by Lynda Walsh to approve the temporary appointment of Janet Haynes to the Board of Registrars until 11/04/11. Seconded by Jim DeVellis.

Vote: 5-0-0

Janet Kennedy, 45 Cocasset Street, expressed her frustration with receiving no response from Town Hall after making several calls regarding street lights in the area of Leonard and Sherman Streets. She said the lighting is terrible and the sidewalks are awful. She said she had been told the Town changed light bulbs to be more efficient. She requested better lighting. Kevin Paicos informed Ms. Kennedy that no lights have been changed; that some of the lights are owned by National Grid and some owned by the Town. He apologized for not returning her calls stating that he had not received any messages in this regard.

George Leonard asked for verification that the Kraft organization had asked for a waiver of ticket fees for the MIAA games. Kevin Paicos pointed out that he had requested a meeting with MIIA concerning their request for a waiver of fees. He has made them aware of the fact that there are only two meetings scheduled before the event is to take place. He explained that once he has the information requested the matter would then have to be reviewed by legal counsel to decide whether or not the Town can legally waive the fee.

Lisa Sinkus, Finance Dept. reminded the taxpayers that the 2nd tax bill is due November 01, 2011.

7:15 – Commuter Parking Lot Fees - Randy Scollins, Finance Director, came before the Board to propose a change in the parking lot fees. He pointed out that on average there are just under 12 permits awarded; the Town has collected approximately \$5,000 from the use of the lot. The rate is \$2.00 per day, half of what is charged at the Mansfield parking lots. Randy said he had heard of people parking in commercial parking areas around Mansfield and parking at friends homes just to avoid paying a parking fee. A lengthy discussion was held including suggestions that would not cause administrative problems, on how to urge more people to utilize the lot. A daily pass was suggested but Randy explained how that would require monitoring of cars parked legally or not. Randy said it comes down to what the value of the parking lot is to the residents of Foxborough. He suggested eliminating the fee for one year while keeping it open to Foxborough residents and using the permit process. If after a year of no fees for Foxborough residents the lot is still not being utilized, it could be opened for anyone. It was suggested that some form of credit card process could be used. Other thoughts expressed concerned transportation from the lot to the train station utilizing the services of GATRA, asking for input from citizens, when a change would be effective, how to best cover Town maintenance costs and to determine a trial period.

Motion by Lorraine Brue to approve a one year period of no fee for evaluation of parking lot usage to be effective 01/01/12. Seconded by Lynda Walsh.

Lorraine Brue amended the motion to include “registration for parking until the end of the year”. **Vote on motion as amended: 5-0-0**

7:35 – Kenny Chesney Concert Report – Chief O’Leary – Chief O’Leary reported that his Department started planning for this concert in January, 2011. He said every year he has tried to improve on the strategies for this concert particularly in the holding areas. He arranged with the Stadium to construct an additional holding area on the grounds and consequently was successful in booking people for protective custody. There were problems on Town roads being congested; part of the problem being that there were other Town activities taking place on that day. Jim DeVellis pointed out that there are changes every year and the Town would have to keep on top of that. He said much of the congestion was caused by people walking along the streets with drinks in their hands. Lorraine Brue commended the Stadium Advisory Committee on the work that committee does during such events at the Stadium. She also congratulated the Stadium security for getting people into protective custody. Chief O’Leary said it was a collaborative effort. Lynda Walsh spoke about the absence of police detail at the intersection of Rt. 1 and Pine Street at the Lafayette House.

Larry Harrington pointed out the increase of people throwing out trash and using resident's yards as bathrooms.

Discussion on North Street and Amendment to Parking Regulations – Jim DeVellis, as an abutter to North Street, recused himself from this discussion. Chief O'Leary explained that the number of cars using North Street has increased greatly in the past few years. He spoke about those residents who have parking permits; he said there are 30 different homes that allow parking in the yards. The Chief explained the different efforts made to direct traffic in a manner that keeps traffic moving. He pointed out that at points where the traffic tries to merge with other vehicles leaving parking lots, etc. that causes back up. He said this is a growing problem that the Town will have to face. Kevin Paicos noted that there is a lucrative cottage industry on North Street during Stadium events. If the Town is going to continue allowing this, traffic issues are going to continue. He said there is no practical way for the Chief and Officers to question parking permits. It was suggested that permits be given out for ten cars only per household and that all cars leaving the area be directed to Route 1 to go North. This would eliminate access to the center of Foxborough; signs should be posted "No Parking during Stadium Events" and possibly making North Street "One Way" during Stadium events. Further discussion was held regarding traffic patterns on side streets, requiring Port-a-Potties for the resident's parking lots, enforcement of traffic regulations and the issue of idling busses. Residents speaking out on these issues included Mark DeVeau, 65 Beach Street, George Leonard, 4 Messinger Ave., Jennifer Keefe, 3 Messinger Ave. and resident at 11 McKenzie Ln. Chief O'Leary said he had sent out letters to those residents who have parking in their yards. This letter advised those residents about the risk on people drinking on their property. He wants them to be aware of their responsibility and risk.

Motion by Mark Sullivan to authorize Chief O'Leary to block access to Beach, Meadowview and Edwards Streets from being used as an access out of the Stadium area. Seconded by Lynda Walsh.

Police Chief O'Leary said it is a matter of using judgment in a particular situation and take whatever steps necessary to secure safety even though it might not be consistent with policy. Mark Sullivan said something has to be done even if it is abrasive. Larry Harrington suggested a sticker policy allowing nobody to park more than 10 cars in the yard. A discussion ensued regarding the number of parked cars to be allowed in a residential yard, consequences for neighboring communities from cars being routed to Route 1 and cooperation with State Police at North Street. Lynda Walsh pointed out that residents are not excited about closing off streets; she suggested making North Street one-way after the Stadium event. She noted that the Town does not have enough officers to check out how many cars are parked in the yard. Bill Casbarra pointed out that a policy about numbers of cars has no standing. There is no regulation or by-law about that. He said the Town needs a regulation that can stand up in

court. Kevin Paicos agreed that there has to be something that is enforceable. Mark Sullivan withdrew the motion. Kevin Paicos noted that there are five more home games and the next opportunity to put in a by-law would be on the ATM Warrant or a STM within the December STM. Mark Sullivan suggested taking this to the ATM with a by-law that would be enforceable.

Motion by Lynda Walsh to authorize Bill Casbarra to bring forward at the ATM in May, 2012 a parking regulation by-law that would be acceptable to address the situation that is facing the Town right now. Seconded by Mark Sullivan. **Vote: 4-0-1** Jim DeVellis abstaining.

Notification of Alleged Liquor License Violation – Kevin Paicos reported that Chief O’Leary had notified him that on September 29th, Sergeant Richard Noonan supervised an alcohol compliance check on liquor license holders in Foxborough. Thirty-four license holders were found in compliance. One violation occurred at Piccadilly Pub where the server did not ask for identification. The Chief is putting things together to take to the license holder for comments.

8:45 – Options on Public Endangerment By-Law Disapproval – Larry Harrington briefly reviewed the process leading up to the disapproval of this by-law by the Office of the Attorney General. Kevin Paicos noted there are options to resolve this problem. He said the total number of protective custodies is needed to address the related costs. He has talked to the Patriots about doing research on security personnel and related activities related only to reducing protective custodies and get that information to the Town. He is hoping to get that information sometime in November and if that comes to fruition the Town would not need the Public Endangerment law. He said this is on the Warrant for the STM as an attempt to have a chance to overturn no adoption of the by-law. He said the Town has to look at all decisions in the context of the budget. He said estimates from Town Counsel on this indicates the Town is looking at three to four thousand dollars that have been spent so far drafting complaints to the Attorney General and additional \$10,000 to \$11,000 additional assuming a favorable outcome. Kevin said the Board should think of this as being substantially more and he cannot, “in good conscience”, advise spending any money or pursuing a writ.

Kevin Paicos noted there have all ready been changes in the Stadium security in the way the Stadium operates and there are 2/3 less numbers in protective custodies. Chief O’Leary pointed out that there have been about 500 people in protective custody, still a significant number. About 300 were taken into protective custody at the Kenny Chesney concert but that is below what the numbers were at the end of last year. Lynda Walsh said she thought it was “time to put this to bed”.

Lorraine Brue asked to have an Executive Session on this in terms of whether or not to consider an appeal. She is concerned about walking away

from making an appeal without having the opportunity to ask Town Counsel's position on the second denial to see what additional arguments that could be considered. She said the Town does not know what is being proposed or what is in the best interest of the Town to not have that discussion in Executive Session with Town Counsel. In that way Lorraine feels she would be informed in making that decision. Lorraine noted that there are parts of the Home Rule Petition that would be important to pursue in Executive Session. Jim DeVellis suggested there are other less litigious ways of resolving this than to sue the Attorney General. Larry Harrington said it makes no sense to ask the public to spend \$11,000 to \$20,000 on litigation on this by-law that has been clearly deemed unlawful by the Attorney General's Office. Mark Sullivan suggested leaving it "to the will of the people" by Town Meeting vote. He has no interest in pursuing this matter.

Motion by Mark Sullivan to not pursue this issue any further with the Attorney General. Seconded by Jim DeVellis.

Lorraine Brue said she was very disappointed that the Board has not really worked with Town Counsel in Executive Session. She feels it is a disservice to the people to not work with input from Town Counsel on this issue. Mark Sullivan noted that the Town spent a great deal of money on legal counsel in regard to the Dog Park issue. He pointed out that the Town decided to pursue that matter and this is "going down the same road". He wants to see from the beginning that the Board does the right thing by not spending money on an appeal. Lorraine Brue said this is a different matter and should be discussed in Executive Session for a full understanding of the merits of the case. But, she said the Board has not even done that; the outcome has all ready been made without Executive Session to get an opinion. She is not saying that the Board should go forth with an appeal, she is saying that the Board has not had the opportunity to hash this out to find out what the issues are around the appeal. The Board is not considering all the facts that it has the opportunity to consider. She said the Board did go into Executive Session to discuss the Dog Park issue.

Larry Harrington said in his opinion the Board has enough information to make a decision and he does not see that the Town should spend more money given the likely hood of the negative outcome of an appeal. Lynda Walsh noted that Kevin Paicos had given direction to the Board; he does not see the result of this issue being in favor of the Town.

Vote: 4-0-1 Lorraine Brue voting in the negative.

9:00 – Review/Approval of DPU Petition – Kevin Paicos said this was not ready for review by the Board at this time.

9:15 – Planning Board – Daily Commuter Rail Proposal- Kevin Weinfeld and Bill Grieder came before the Board to discuss the Daily Commuter Rail Proposal. Bill Grieder said the Planning Board had a public meeting on this proposal; it was

packed with people from Walpole – no one from Foxborough. He pointed out that the Board and the people of Foxborough need to understand the basic way the Town is structured and how it operates. He said there is a 2010 study on the MBTA web site; a presentation was made to 495 industries. There is no communication with the municipalities that are affected by this proposal. Bill noted that there is a cost factor not included – the mitigation or the cost of hosting this commuter rail. Bill pointed out that there is a lot at stake here – 9 to 10 trips per day, the rail would be coming in from Millis – a lot to understand how this would work. He said it has the potential to change the Town of Foxborough in a very significant way. He encouraged citizens of Foxborough to attend zoning meetings to help fully understand what this would mean to the Town.

Kevin Paicos noted that this is not being supported by MBTA at this point. Larry Harrington suggested a letter be sent to the MBTA asking them to consider input from local communities. He pointed out that there has not been an opportunity to hold public hearings or to even study the whole issue. Kevin Paicos said he would work with the Town Planner on a letter to address the issues raised at this meeting.

ACTION:

Minutes: The Minutes of the Board of Selectmen's Meeting of October 11, 2011 were reviewed.

Motion by JimDeVellis to approve the Minutes of October 11, 2011 as amended. Seconded by Mark Sullivan.

Vote: 4-0-1 Lynda Walsh abstaining

Donation – Received from Sue Thibedeau, Animal Control Officer, notice of \$120 donation from Judi Coneo to be deposited in the Animal Control Gift Fund.

Motion by Lynda Walsh to accept the \$120.00 donation from Judi Coneo to the Animal Control Gift Fund. Seconded by Lorraine Brue. **Vote: 5-0-0**

NEW BUSINESS/OLD BUSINESS

Larry Harrington thanked Foxborough Cable Access for preparing for this meeting. He also pointed out that with the cold weather coming up the Discretionary Fund works hard to help those struggling to fill their oil tanks. The Discretionary Fund is accepting contributions to the oil account in order to be able to help as many as possible.

Kevin Paicos noted that the Board had voted to give salary the same as the past year. He pointed out that it has been a long tradition to give COLA automatically. An automatic 3% COLA increase was passed for July 1, 2011.

He brought this to the attention of the Board. His salary will be reduced twice in order to pay back to the Town the \$1200 paid erroneously and the salary will be adjusted accordingly. He wanted to make full disclosure on this. He also added that this is a fine example of why the Town needs a Human Resources Director who would be responsible for preventing this sort of error from happening.

Motion by Mark Sullivan to go into Executive Session to discuss pending litigation and to exit from Executive Session for the sole purpose of adjournment. Seconded by Lynda Walsh.

Vote: 5-0-0	Larry Harrington, Chairman	Yes
	Jim DeVellis, Vice Chairman	Yes
	Mark Sullivan, Clerk	Yes
	Lorraine Brue	Yes
	Lynda Walsh	Yes

Motion by Jim DeVellis to adjourn. Seconded by Mark Sullivan.

Vote: 5-0-0 Meeting adjourned at 10:15 p.m.

Mark Sullivan, Clerk